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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

FRANK J. KELLEY, Attorney General
for the State of Michigan, FRANK J.
KELLEY; ex rel MICHIGAN NATURAL
RESOURCES COMMISSION, MICHIGAN
WATER RESOURCES COMMISSION and
HOWARD A. TANNER, Director of
the Michigan Department of
Natural Resources,

Plaintiffs and Counter-Defendants,

-vs-

CHEMICAL RECOVERY SYSTEMS, INC.,
a Michigan corporation, M. S. & N.
CORPORATION, a Michigan corporation,
NOLWOOD CHEMICAL CORPORATION, a
Michigan corporation, EDWARD W.
LAWRENCE, a Michigan Resident,
A. H. MAGNUS, JR., a Michigan
Resident, ARTHUR B. McWOOD, Jr.,
a Michigan Resident, CHARLES H.
NOLTON, a Michigan Resident, and
PETER J. SHAGENA, a Michigan Resident,

Case No. 79-929-190-CE

COUNTERCLAIM

Defendants, Counter-Plaintiffs,
Third Party Plaintiffs,

-vs-

PRODUCTS-SOL, INC., a Michigan
corporation

NOW COME Defendants-Counter Plaintiffs, CHEMICAL
RECOVERY SYSTEMS, INC., a Michigan corporation, M. S. & N.
CORPORATION, a Michigan corporation, NOLWOOD CHEMICAL CORPORATION,
a Michigan corporation, A. H. MAGNUS, JR., a Michigan resident,
ARTHUR B. McWOOD, JR., a Michigan resident, CHARLES H. NOLTON, a
Michigan resident, and PETER J. SHAGENA, a Michigan resident, by
and through their attorneys, MURPHY, BURNS & McINERNEY, P.C., and
for their counter-complaint against Plaintiffs, FRANK J. KELLEY,

Attorney General for the State of Michigan, FRANK J. KELLEY,
ex rel MICHIGAN NATURAL RESOURCES COMMISSION, MICHIGAN WATER
RESOURCES COMMISSION and HOWARD A. TANNER, Director of the
Michigan Department of Natural Resources, state as follows:

GENERAL ALLEGATIONS

1. Defendant, Chemical Recovery Systems, Inc., is a
Michigan corporation with offices at 36345 Van Born Road, Romulus,
Michigan.

2. Defendant, M. S. & N. Corporation, is a Michigan
corporation with offices at 28780 John R, Madison Heights, Michigan.
S/B 3970

3. Defendant, Nolwood Chemical Corporation, is a Michigan
corporation with offices at 8970 Hubbell, Detroit, Michigan.

4. Defendant, A. H. Magnus, Jr., is a resident of the
State of Michigan, residing at [REDACTED]
[REDACTED]

5. Defendant, Arthur B. McWood, Jr., is a resident of
the State of Michigan, residing at [REDACTED]
[REDACTED]

6. Defendant, Charles H. Nolton, is a resident of the
State of Michigan, residing at [REDACTED]
[REDACTED]

7. Defendant, Peter J. Shagena, is a resident of the
State of Michigan, residing at [REDACTED].

8. Plaintiff, Frank J. Kelley, is the Attorney General
for the State of Michigan.

9. Plaintiff, Michigan Natural Resources Commission

supervises, pursuant to 1965 PA 380, Section 250 et seq; the Michigan Department of Natural Resources and has been designated by the Governor in Executive Order 1973-2 as "The state entity responsible for the development and coordination of all environmental functions and programs of the State of Michigan."

10. Plaintiff, Water Resources Commission, is a board of the statewide jurisdiction, created pursuant to 1929 PA 245, et seq, which directs the Commission to "Protect and conserve the water resources of the State."

11. Plaintiff, Howard A. Tanner, is the Director of the Michigan Department of Natural Resources.

plaintiff
12. That Plaintiffs collectively have since 1968 been responsible for enforcement of an Order of Determination No. 1212 issued to counter-plaintiffs predecessor, Cam Chem Company, and have actively been involved with the property known at 36345 Van Born Road, Romulus, Michigan.)

It is involved only in certain cases - i.e. to obtain compliance w/ statutes - etc.

COUNT I

equity
1. The Plaintiffs, Counter-Defendants, State of Michigan, et al., have by their negligence, contributory negligence, comparative negligence, action, and/or inaction, contributed to the pollution of the water and the ground water, in and around the site of Chemical Recovery Systems, Inc., commonly referred to as 36345 Van Born Road, Romulus, Michigan. The Counter Defendants, State of Michigan, et al., have through their guidance, instruction, enforcement, or supervision, to the Defendants, Chemical Recovery Systems and Defendant's predecessors, Cam Chem Company, been materially and substantially responsible for the present condition of this site. Plaintiffs Counter-Defendants have in a substantial fashion been

responsible for the waste treatment program instituted and to be utilized by Counter-Plaintiffs' predecessor, Cam Chem, which the State now alleges is responsible for pollution in and around the site.

Answer Therst - 2 - 6
2. That the Department of Natural Resources permitted/ instructed/or directed the Counter-Plaintiff's predecessor, Cam Chem, to install and maintain lagoons on their property and instructed them in the construction of said lagoons. That the Counter-Defendants by their action and/or inaction have admitted the use of a lagoon storage system and lagoon disposal method which caused the alleged pollution.

3. That Counter-Defendants issued a Notice of Non-Compliance and Order to Comply on May 5, 1975.

4. That the Counter-Defendants failed to enforce MSA §3.527(2), which states that the "Notice shall . . . set a date for a hearing on the facts and proposed action involved, the hearing to be scheduled not less than four weeks nor more than eight weeks from the date of the Notice of Determination."

5. That no hearing date was ever set by the Water Resources Commission and this failure was in violation of the above-referenced statute.

6. That Counter-Defendants repeatedly failed to perform their statutory function and knowingly allowed Counter-Plaintiffs predecessor, Cam Chem, to pollute the ground and ground waters on or around 36345 Van Born Road, including the creation of four ponds on said property. In addition to a "vinyl pond" located on said property.

COUNT II

7. Counter-Plaintiffs incorporate by reference Paragraphs 1-12 of General Allegations and Paragraphs 1-6 of Count I herein.

*62-1
is inclusion*

8. That the Order of Determination hereinbefore referred to imposed specific limitations on Defendant Third Party Plaintiffs' predecessor, Cam Chem Company, and that for several years the Counter-Defendants, State of Michigan, et al., allowed Cam Chem Co to discharge and dispose of wastes, waste effluents, contaminated waste water, chemical by-products and toxic chemicals, in a negligent, unlawful fashion in blatant violation of said Order of Determination. Counter-Defendants, State of Michigan, et al., failed to exercise their statutory and administrative responsibilities and allowed Cam Chem Co to violate and materially and substantially affect the environmental balance in and around said property and ground water.

*62-1
condemnation*

9. That if as the Plaintiffs, State of Michigan, et al., allege there is contamination of Trouton Drain, Encorse Creek, and the ground waters of the State, said contamination has been and continues to be caused by Counter-Defendants', State of Michigan, et al., negligent action and "nuisance" created by their negligence and/or violation of the responsibilities both statutory and administrative of the people of the State of Michigan.

*62-1
is inclusion*

10. That as a result of the Counter-Defendants' actions (and/or inactions which constitute "nuisance" and negligence, the Counter-Plaintiffs have incurred substantial expenses, including: legal fees, investigative and administrative costs, consulting fees and other costs.

COUNT III

11. Counter-Plaintiffs incorporate by reference Paragraphs 1-12 of General Allegations, Paragraph 1-6 of Count I and Paragraphs 7-10 of Count II herein.

12. If and to the extent that Plaintiffs', State of Michigan, et al., allegations herein with respect to the chemical by-products and wastes discussed hereinbefore are established, then acts and/or omissions hereinbefore discussed on the part of the Counter-Defendants, State of Michigan, et al., have resulted in the pollution, impairment and destruction of the water, land and other natural resources of the State of Michigan and the public trust therein, contrary to the Michigan Environmental Protection Act (MEPA), 1970 PA 127, et seq, and the duty imposed on Counter-Defendants thereunder to conduct its activities, statutory and administrative, so as to minimize and prevent harm to, and degradation of, the environment, for which Counter-Plaintiffs are entitled to declaratory and injunctive relief.

COUNT IV

13. Counter-Plaintiffs incorporate by reference Paragraph 1-2 of General Allegations, Paragraphs 1-6 of Count I, Paragraphs 7-10 of Count II and Paragraphs 11 and 12 of Count III.

14. That the Defendants Counter Plaintiffs have repeatedly cooperated with the Counter Defendants, State of Michigan, et al., since purchasing the property.

15. That the Counter Plaintiffs, Chemical Recovery Systems, Inc., followed the instructions of the State in handling the plant as it was left by Cam Chem Co with the supervision and

permission of the State of Michigan, et al., in an attempt to purge the site of the environmental problems. That the State of Michigan have, to this date, approved of Chemical Recovery's method of clean-up. That the State of Michigan, et al., as to their actions of silence approval and information approved the plan submitted by the Defendants, Counter-Plaintiffs. That the Defendants, Chemical Recovery Systems, relied in good faith upon the State of Michigan's continued approval and instruction to them when attempting a clean-up program.

Legal conclusion
16. That based on the allegations herein, Plaintiffs, State of Michigan, et al., are estopped from maintaining the entitled action.

RELIEF REQUESTED

WHEREFORE, Counter-Plaintiffs respectfully pray that this Court grant the following relief:

1. A Judgment be issued for damages for whatever amount Counter-Plaintiffs are found to be entitled.

2. A mandatory, permanent injunction be issued which requires, inter alia

A. That Counter-Defendants remove all contaminated materials, soils, and sediments if any exist in and around Counter-Plaintiff's plant;

B. That Counter-Defendants do all things necessary to restore area around Counter-Plaintiff's plant to its natural condition;

C. That Counter-Plaintiffs perform all acts sought by Counter-Defendants to be performed by Counter-Plaintiffs in Counter-Defendant's Complaint.

3. That Counter-Defendants reimburse Counter-Plaintiffs

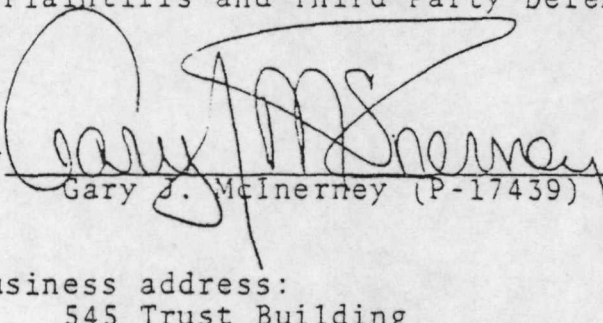
for all costs of this action, including attorneys fees.

4. That Counter-Plaintiffs be awarded such other and further relief as the Court deems just and proper.

DATED: September 24, 1979

MURPHY, BURNS & McINERNEY, P.C.
Attorneys for Defendants, Counter-
Plaintiffs and Third Party Defendants

By


Gary J. McInerney (P-17439)

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WATER RESOURCES COMMISSION and
HOWARD A. TANNER, Director of
the Michigan Department of
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Plaintiffs,

Case No. 79-929-190-CE

-vs-

EX PARTE MOTION TO
ADD THIRD PARTIES

CHEMICAL RECOVERY SYSTEMS, INC.,
a Michigan corporation, M.S. & N.
CORPORATION, a Michigan Corporation,
NOLWOOD CHEMICAL CORPORATION, a
Michigan Corporation, EDWARD W.
LAWRENCE, A Michigan Resident,
A. H. MAGNUS, JR., a Michigan
Resident, ARTHUR B. McWOOD, JR.,
a Michigan Resident, CHARLES H.
NOLTON, a Michigan Resident,
and PETER J. SHAGENA, a Michigan
Resident,

Defendants.

NOW COMES Defendant, CHEMICAL RECOVERY SYSTEMS, INC., by
and through its attorneys, Murphy, Burns & McInerney, P.C. and moves,
pursuant to GCR 1963, 204.1 for leave as a Third-Party Plaintiff to
serve a Summons and Complaint upon the City of Romulus, the Wayne
County Drain Commission, the Wayne County Department of Health and
Products-Sol, Inc. who are not yet parties to this action but who
are or may be liable to the Defendant, Chemical Recovery, by
right of contribution or otherwise, for all or part of the Plaintiff's
claim against Defendant, Chemical Recovery.

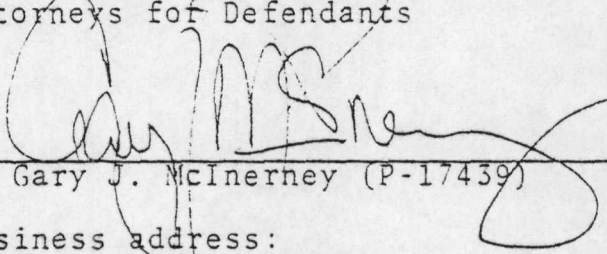
1. The interest of justice and judicial economy will
be served by permitting the filing of Third-Party Complaint at this
time.

2. No prejudice will accrue to any other party by reason of the filing of these Complaints, since the action is at an early stage. Pursuant to GCR 1963, 118 and 204, leave should be freely given.

DATED: October 10, 1979

MURPHY, BURNS & MCINERNEY, P.C.
Attorneys for Defendants

By


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